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SUBJECT Appeal Brief (09/ 173,040)

Number of Pages 19

Date 4/28/2007

MESSAGE

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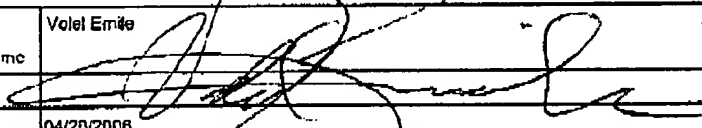
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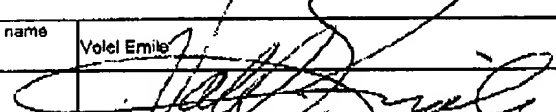
PTO/SE/21 (02-04)

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TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>	Application Number	09/173,040
	Filing Date	10/15/1999
	First Named Inventor	John Maddalozzo, Jr.
	Art Unit	2178
	Examiner Name	Cesar B. Paula
Total Number of Pages in This Submission	Attorney Docket Number	Att 98 132

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/Declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.62 or 1.63	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s)	<input type="checkbox"/> After Allowance communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
Remarks Appeal Brief		
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Firm or Individual name	Volel Emile	
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Date	04/28/2006	

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PATENT
09/173,040

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Application of: :
Maddalozzo, Jr. et al. :
Serial No: 09/173,040 : Before the Examiner:
 : C. Paula
Filed: 10/15/98 : Group Art Unit: 2176
Title: METHOD OF CONTROLLING : Date: 1/27/03
WEB BROWSER DOCUMENT :
IMAGE DOWNLOADS AND :
DISPLAYS :

TRANSMITTAL OF APPELLANTS' BRIEF UNDER 37 C.F.R. 1.192(a)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Attached is Appellant's Brief from a decision of the Examiner dated
12/07/2005, finally rejecting Claims 1, 3 – 6, 8 – 11 and 13 – 27.

The item(s) marked below are appropriate:

1. _____ A petition and fee for extension of term for reply to the final rejection is attached.
2. X Appeal fee
 X other than a small entity. Fee: \$500.00
3. X Payment
 X Please charge Deposit Account 09-0447 the sum of \$500.00. A duplicate of this notice is attached.

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PATENT
09/173,040

The Commissioner is hereby authorized to charge any additional fee,
which may be required or credit any overpayment to Deposit Account No. 09-
0447.

Respectfully Submitted

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Appl. No. 09/173,040
Appeal Brief dated 04/28/2006
Reply to Office Action of 12/07/2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Application of:	:
Maddalozzo, Jr. et al.	:
Serial No: 09/173,040	: Before the Examiner:
	: Cesar B. Paula
Filed: 10/15/98	: Group Art Unit: 2178
Title: METHOD OF CONTROLLING	: Confirmation No.: 1186
WEB BROWSER DOCUMENT	:
IMAGE DOWNLOADS AND	:
DISPLAYS	:

APPELLANTS' BRIEF UNDER 37 C.F.R. 1.192

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is an appeal to a final rejection dated December 07, 2005 of claims 1, 3 - 6, 8 - 11 and 13 - 27 of Application Serial Number 09/173,040 filed on October 15, 1998. This brief is submitted pursuant to a Notice of Appeal filed on March 07, 2006 in accordance with 37 C.F.R. 1.192.

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BRIEF FOR APPLICANTS – APPELLANTS

(I)

Real Party in Interest

The real party in interest is International Business Machines Corporation (IBM), the assignee.

(II)

Related Appeals and Interferences

There are no other appeals or interferences known to appellants, appellants' representative or assignee, which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(III)

Status of Claims

In the Final Office Action, the Examiner objected to Claims 3, 5, 8, 10, 13, 15, 18, 24 and 27 under 35 USC §112, first and second paragraphs. Claims 1, 3 – 6, 8 – 11 and 13 – 27 were finally rejected. The claims that have been objected to (i.e., Claims 3, 5, 8, 10, 13, 15, 18, 24 and 27) are canceled in the present Brief. Hence this appeal involves Claims 1, 4, 6, 9, 11, 14, 16, 17, 19 – 23, 25 and 26.

(IV)

Status of Amendment

No amendment was filed subsequent to the Final Rejection.

(V)

Summary of Claimed Subject Matter

The claimed invention provides a mechanism to suspend the display of graphic images in a document. In accordance with Claims 1, 4, 6, 9, 11 and 14,

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when a text file containing an embedded image file is to be displayed, the display of the image file may be stopped (while the image file is being displayed) if it is of no interest to the user (see page 5, lines 3 – 6, 18 – 22, page 6, lines 11 – 17, see also item 134 of Figs. 2 – 5, and item 665 of Fig. 6).

As mentioned in the passages cited above, the suspension of the display of the image occurs because the download of the data representing the image is suspended. Accordingly, the claimed invention also provides a mechanism to suspend the download of graphic images in a document. That is, according to Claims 16, 17, 19 – 23, 25 and 26, when a text file containing an embedded image file is to be displayed, the download of the image file (see Claim 16) may be stopped (while the image file is being displayed) if it is of no interest to the user.

(VI)

Grounds of Rejection to be Reviewed on Appeal

Whether Claims 1, 4, 6, 9, 11, 14, 16, 17, 19 – 23, 25 and 26 were properly rejected under 35 USC 102 (c) as being anticipated by Cragun et al. And, whether Claims 1, 4, 6, 9, 11, 14, 16, 17, 19, 20, 22, 23, 25 and 26 were properly rejected under 35 USC 102 (e) as being anticipated by Nielsen.

(VII)

Arguments

Whether Claims 1, 4, 6, 9, 11, 14, 16, 17, 19 – 23, 25 and 26 were properly rejected under 35 USC 102 (c) as being anticipated by Cragun et al.

In considering a Section 102 rejection, all the elements of the claimed invention must be disclosed in a single item of prior art in the form literally defined in the claim. *Jamesbury Corp. v. Litton Indus. Products*, 756 F.2d 1556,

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225 USPQ 253 (Fed. Cir. 1985); *Atlas Powder Co. v. Dupont*, 750 F.2d 1569, 224 USPQ 409 (Fed. Cir. 1984); *American Hospital Supply v. Travenol Labs.*, 745 F.2d 1, 223 USPQ 577 (Fed. Cir. 1984).

Cragun et al. teach an apparatus and method for manually and selectively block image displays. According to the teachings of Cragun et al., when a Web page that includes images is displayed, a user may select one or more images that have already been displayed to block from continuing to be displayed.

However, Cragun et al. do not teach, show or suggest *independently halting the display of an image, while the image is being displayed* as claimed. Nor do Cragun et al. teach, show or so much as suggest *independently halting the download of an image, while the image is being downloaded* as claimed.

Whether Claims 1, 4, 6, 9, 11, 14, 16, 17, 19, 20, 22, 23, 25 and 26 were properly rejected under 35 USC 102 (e) as being anticipated by Nielsen

As noted above, in considering a Section 102 rejection, all the elements of the claimed invention must be disclosed in a single item of prior art in the form literally defined in the claim. *Jamesbury Corp. v. Litton Indus. Products*, 756 F.2d 1556, 225 USPQ 253 (Fed. Cir. 1985); *Atlas Powder Co. v. Dupont*, 750 F.2d 1569, 224 USPQ 409 (Fed. Cir. 1984); *American Hospital Supply v. Travenol Labs.*, 745 F.2d 1, 223 USPQ 577 (Fed. Cir. 1984).

Nielsen purports to teach a method and apparatus for detecting and presenting client side image map attributes including sound attributes using page layout data strings. According to the teachings of Nielsen, an information display system for enhancing human-computer interactions is disclosed. The system includes an image map detection mechanism for detecting an image map associated with an image. The image map detection mechanism has an audio attribute associated with a selectable area of the image. The system also includes a pre-selection condition detection mechanism that is configured to

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detect a pre-selection condition on the selectable area in the image. Additionally, the system includes a sound presentation mechanism configured to present a sound through a sound production facility upon detection of the pre-selection condition. The sound is associated with the audio attribute of the selectable area.

In providing a background to the disclosure, Nielsen explains that sometimes images cannot be displayed in a browser. When an image cannot be displayed in a browser, an ALT attribute (i.e., text that describes the area in which the image is contained or is to be displayed) is displayed instead of the image. Nielsen further explains that an image may not be displayed, inter alia, because a user has activated the browser's stop download SCA (selectable control area).

But, note that Nielsen does not indicate whether the browser's stop download SCA is activated while the image is being displayed or before the image is displayed. All that is disclosed is that the ALT attribute is displayed instead of the image when the browser's stop download SCA is activated.

In any case, it seems to Applicants that the Examiner is using the phrase (usually by activating the browser's stop download SCA) to indicate that Nielsen teaches the claimed invention. However, Nielsen does not elaborate. The only way, Applicants are aware of, for a user to stop an image download is by invoking the stop download command of the browser.

Applicants submit, therefore, that Nielsen does not teach, show or suggest the step of ***independently halting the display of an image, while the image is being displayed*** as claimed. Nor does Nielsen teach show or suggest the step of ***independently halting the download of an image, while the image is being downloaded*** as claimed.

All the pending claims in the Application contain, in one form or another, the above-identified limitations. Applicants, therefore, submit that the pending claims are allowable over the cited references. Thus, reconsideration, allowance and passage to issue are once more respectfully requested.

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(VIII)

Claims Appendix

1. (Previously presented) A method of controlling web browser document displays, said document being displayed on a display system by a user and having at least a text file and an image file, said method comprising the steps of:

displaying said text file on said display system;

displaying said image file on said display system; and

independently halting the display of said image file, while said image file is being displayed, if said image file is not of interest to the user.

2. Canceled.

3. Canceled.

4. (Previously presented) The method of Claim 1 wherein said step of halting displaying said image file includes the step of stopping downloading data representing said image file to said display system.

5. Canceled.

6. (Previously presented) An apparatus for controlling web browser document displays, said document being displayed on a display system by a user and having at least a text file and an image file, said apparatus comprising:

means for displaying said text file on said display system;

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means for displaying said image file on said display system; and

means for independently halting the display of the image file, while the image file is being displayed, if the image file is not of interest to the user.

7. Canceled.
8. Canceled.
9. (Previously presented) The apparatus of Claim 6 wherein said means for halting displaying said image file includes means for stopping downloading data representing said image file to said display system.
10. Canceled.
11. (Previously presented) A computer program product on a computer readable medium having computer program code means for controlling web browser document displays, said document being displayed on a display system by a user and having at least a text file and an image file, said apparatus comprising:

computer program code means for displaying said text file on said display system;

computer program code means for displaying said image file on said display system; and

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computer program code means for independently halting the display of the image file, while the image file is being displayed, if the image is not of interest to the user.

12. Canceled.

13. Canceled.

14. (Previously presented) The computer program of Claim 11 wherein said computer program code means for halting displaying said image file includes computer program code means for stopping downloading data representing said image file to said display system.

15. Canceled.

16. (Previously presented) A method of downloading a web document, said document containing a text file as well as an image file, said method comprising the steps of:

downloading and displaying said document; and

independently stopping, while said document is being downloaded, the download of said image file if said image file is not of interest to a user.

17. (Previously presented) The method of Claim 16 wherein the stopping step includes the step of halting the display of said image file while said image file is being displayed.

18. Canceled.

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19. (Previously presented) A computer program product on a computer readable medium for downloading a web document, said document containing a text file as well as an image file, said computer program product method comprising:

code means for downloading and displaying said document; and

code means for independently stopping, while said document is being downloaded, the download of said image file if said image file is not of interest to a user.

20. (Previously presented) The computer program product of Claim 19 wherein the stopping code means includes code means for halting the display of said image file while said image file is being displayed.

21. (Previously presented) The computer program product of Claim 20 further including code means for resuming the display of said image file.

22. (Previously presented) An apparatus for downloading a web document, said document containing a text file as well as an image file, said apparatus comprising:

means for downloading and displaying said document; and

means for independently stopping, while said document is being downloaded, the download of said image file if said image file is not of interest to a user.

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23. (Previously presented) The apparatus of Claim 22 wherein the stopping means includes means for halting the display of said image file while said image file is being displayed.
24. Canceled.
25. (Previously presented) A computer system for downloading a web document, said document containing a text file as well as an image file, said computer system comprising:

at least one memory device for storing code data; and

at least one processor for processing said code data to download and display said document, and to independently stop, while said document is being downloaded, the download of said image file if said image file is not of interest to a user.
26. (Previously presented) The computer system of Claim 25 wherein the processor processes said code data to halt the display of said image file while said image file is being displayed.
27. Canceled.

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(IX)

Evidence Appendix

No evidence was submitted pursuant to 37 C.F.R. §§ 1.130, 1.131 and 1.132 nor was there any evidence entered by the Examiner relied upon by Appellants in this appeal.

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(X)

Related Proceedings Appendix

There are no decisions rendered by a court or the Board that would have a bearing on the Board's decision in the pending appeal.